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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 13th September, 1996:—

BILL No. XXXIII of 1996

A Bill to provide for adequate reservation in posts and services under the Central Government and its Public Sector Undertakings for the Scheduled Castes, the Scheduled Tribes and other Backward Class citizens and for matters connected therewith.

BE it enacted by Parliament in the Forty-seventh year of the Republic of India as follows:—

1. (1) This Act may be called the Reservation Act, 1996.

Short title
and extent.

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires, —

Definitions.

(a) “appointing authority” means the authority empowered to make appointment to a service or post in the Central Government or its undertakings;

(b) “Backward Class” means any caste or community of persons recognised as backward caste or community either by the Central or the State Government by notification in the Official Gazette;

(c) “Government establishment” means any office of the Central Government, Public Sector Undertaking or Statutory Authority established under an Act of Parliament or a Corporation wherein Central Government holds 51 percent of the share capital and includes the Central Universities, affiliated colleges and educational institutions owned or aided by the Central Government;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "recruitment year" means the calendar year during which recruitment is made;

(f) "reservation" means reservation of vacancies in posts and services and promotions thereto for the citizens belonging to Scheduled Castes, Scheduled Tribes and other Backward Classes;

(g) "Scheduled Castes" means the castes specified in the Constitution (Scheduled Castes) Order, 1950 made by the President of India under article 341 of the Constitution of India and as amended from time to time; C.O. 19.

(h) "Scheduled Tribes" means the tribes specified in the Constitution (Scheduled Tribes) Order, 1950 made by the President of India under article 342 of the Constitution of India and as amended from time to time. C.O. 22.

Reservation in posts and services of the Union Government for Scheduled Castes, Scheduled Tribes and other Backward Class citizens.

3. (1) Notwithstanding anything contained in any other law for the time being in force, Central Government shall reserve or cause to be reserved vacancies in posts and services in Government establishments for the citizens belonging to the Scheduled Castes, the Scheduled Tribes and other Backward Classes in the same manner as is being reserved by the Central Government immediately before the commencement of this Act.

(2) Unless the Central Government, by notification in the Official Gazette, otherwise directs, the vacancies reserved under this Act shall not be filled up by candidates other than those for whom they have been reserved.

(3) While reserving the vacancies under sub-section (1), the Central Government shall, as far as practicable, adhere to the percentage of the citizens belonging to the Scheduled Castes, the Scheduled Tribes and other Backward Classes, as the case may be, in the total population as recorded in the latest census.

Permanent roster for vacancies.

4. Every Government establishment shall maintain a permanent roster indicating the number of vacancies reserved for the candidates belonging to the Scheduled Castes, the Scheduled Tribes and other Backward Classes and also the vacancies left unreserved in such manner as may be prescribed.

Exchange of reservation between Scheduled Castes and Scheduled Tribes.

5. (1) In the event of non availability of candidates from the Scheduled Castes or the Scheduled Tribes, as the case may be, for filling the vacancies reserved for these categories for two consecutive years, the Central Government may, by special order to be recorded in writing, may fill up such vacancies by exchange between the Scheduled Castes and the Scheduled Tribes and the vacancies so filled by exchange shall be deemed as reserved for the candidates of that particular category who are actually appointed to such vacancies after exchange.

(2) If no suitable Scheduled Castes and Scheduled Tribes candidates are available for the posts and services reserved for them even after exchange of reservation, the Central Government shall advertise such posts exclusively for these categories to make special recruitment for them and after selecting the appropriate number of Scheduled Castes and Scheduled Tribes candidates shall provide training to them at its own expenses in the appropriate institutions so that on satisfactory completion of the training they are appointed to the reserved posts.

Relaxations to be given in respect of reserved vacancies.

6. For initial appointments of the candidates from the Scheduled Castes, the Scheduled Tribes and other Backward Classes,—

(a) the upper age limit prescribed for recruitment shall be relaxed by five years;

(b) fee prescribed for competitive examinations shall not be charged; and

(c) candidates shall be paid travelling allowance for appearing in competitive examination or interviews thereof conducted by Public Service Commissions, Staff Selection

Commission or such other agency in such manner as may be prescribed.

7. (1) Notwithstanding anything in this Act or anything contained in any other law for the time being in force, reservation in promotion shall be given to officers belonging to the Scheduled Castes and the Scheduled Tribes only.

Promotion.

(2) Where promotion is to be made on the basis of seniority the senior most officer belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, for whom the reserved post has arisen shall be promoted if he possesses the minimum qualifications and experience at relaxed standards required for such promotion.

(3) Where promotion is to be made on the basis of selection, the procedure for filling up the reserved vacancies shall be such, as may be prescribed:

Provided that the zone of consideration under this selection shall be six times the number of posts or vacancies.

8. (1) Every appointing authority of Government establishments shall furnish to the President of India and the Chairman of the National Commission for the Scheduled Castes and the Scheduled Tribes in the prescribed manner an annual report on appointments made under this Act by the end of the month of June of the succeeding financial year and maintain such other records as may be prescribed.

Appointing authority to furnish annual report of appointments against reserved vacancies.

(2) Any officer, authorised by the President of India or the Chairman of the National Commission for the Scheduled Castes and the Scheduled Tribes, may inspect any record or document and require the appointing authority to produce the roster and other records relating to appointments made by him and maintained in his office.

(3) It shall be the duty of the appointing authority to produce such records and documents and furnish such information and afford all such assistance and facilities as may be necessary for the purposes of sub-section (2).

9. The Central Government may, by notification in the Official Gazette, constitute a Standing Committee consisting of the following:—

Standing Committee to monitor the Act.

(a) Minister of Welfare of the Central Government as Chairperson;

(b) Minister of Home Affairs and the Minister of Personnel of the Central Government and three members of Parliament belonging to the Scheduled Castes, the Scheduled Tribes and other Backward Classes to be nominated by the President of India as members; and

(c) Secretary to the Union Ministry of Welfare of the Central Government as Member Secretary.

10. The Standing Committee constituted under section 9 shall—

Functions of the Standing Committee.

(a) review the implementation of this Act and rules made thereunder on year to year basis;

(b) suggest remedial measures for the difficulties which may crop up in the implementation of the Act; and

(c) perform such other functions as the Central Government may, by notification in the Official Gazette, assign to the Committee from time to time.

11. The Central Government shall prepare an annual report about the implementation of this Act and lay it before each House of Parliament in the first week of its Budget Session of the succeeding financial year.

Annual report.

12. If an appointing authority of a Government establishment makes an appointment in such establishment in contravention of the provisions of this Act, he shall be punishable with imprisonment which may extend to three months or with fine which may extend to ten thousand rupees or with both.

Penalty.

13. No prosecution for an offence under this Act shall be instituted except by or with the sanction of the Central Government.

Cognizance of offence.

Overriding
effect of the
Act.

14. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the Scheduled Castes, the Scheduled Tribes and other Backward Classes within the country.

Power to make
rules.

15. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Dalits, the victims of untouchability separated by *Varna-ashram* of the early Hindu dominated society, have suffered centuries of humiliation, hatred and all sorts of atrocities at the hands of the upper castes who occupied higher status in the society by virtue of their birth. This caste system has not only harmed the *dalits* in a big way but it has also affected the country as a whole. As a result of this division even small nomadic groups had invaded this country because the *Kshatriyas* only had the right to fight other factions of the society use to become a mute spectator in case of war.

Similarly some tribes are still living in primitive age far from the progress and development in the country. Their lives are mainly dependent on jungles but they are exploited not only by the elites of the society but also by the forest officials. The exploitation is also continuing for centuries which is a blot on our society.

After the nation achieved independence the *messiah* of the *dalits* his holiness Baba Saheb B.R. Ambedkar rose to the occasion and raised his voice for the exploited *dalits* and due to his tireless efforts the reservation policy was introduced in the country providing much desired relief to the *dalits* which opened the doors of their progress in the society and brought equality for them in the society.

Unfortunately reservation policy has not been codified so far in posts and services of the Government. As a result there has been an apathy and unwillingness on the part of the most of the senior officers belonging to upper castes to sincerely implement the reservation policy perhaps due to the reason that they still look down upon the *dalits* and they do not want them to get opportunities in the governance of the country. Due to this apathy, the reservation quota in the ministries and PSUs remain unfilled. Hence it has been proposed in this Bill to codify the reservation policy to make it mandatory and provide for a penal clause for non implementation of the policy by the appointing authorities which will serve as a deterrent to such authorities.

Hence this Bill.

SAROJ KHAPARDE.

FINANCIAL MEMORANDUM

Sub clause (2) of clause 5, provides that if no suitable Scheduled Castes, Scheduled Tribes 'and other Backward Classes' candidates are available the Central Government shall select such candidates through special recruitment and provide training to them at its own expenses at appropriate institutions. The Bill, if enacted and brought into operation will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees twenty lakhs may involve as recurring expenditure per annum.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill gives power to the Central Government to make rules for the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

II

BILL No. XXXII of 1996

A Bill to provide for the custody, maintenance and upbringing of children born of prostitutes women jail inmates and mentally ill or retarded women by the Central and State Governments and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Forty-seventh year of the Republic of India as follows:—

1. (1) This Act may be called the Children Born of Prostitutes, Women Jail Inmates and Mentally ill or Retarded Women (Upbringing and Welfare) Act, 1996;

Short title and
extent.

(2) It extends to the whole of India.

2. In this Act unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) “brothel”, “prostitute” and “prostitution” shall have the meanings respectively assigned to them in the Immoral Traffic (Prevention) Act, 1956;

(c) "child" means a boy or girl who has not attained the age of ten years;

(d) "Fit Institution" means any institution not being a police station or jail found fit by the appropriate Government to receive and take care of a child entrusted to its care and protection on the terms and conditions specified by that appropriate Government;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "Special Home" means an institution established or certified by the appropriate Government under section 4;

(g) "woman jail inmate" means any woman undergoing jail term for more than five years.

Appropriate Government to take custody of children born of prostitutes, women jail inmates and mentally retarded women.

3. (1) Notwithstanding anything contained in any other law for the time being in force, the appropriate Government shall take custody of every child who is born of or accompanying a prostitute in a brothel, woman jail inmate or mentally ill or retarded Women whether admitted as an indoor patient in a mental hospital or not in such manner as may be prescribed.

(2) Every child taken custody of by the appropriate Government under sub-section (1) shall be sent to the Special Homes established under sub-section (1) of section 4 by such Government in such manner as may be prescribed.

Establishment of Special Homes and recognition of Fit Institutions.

4. (1) The appropriate Government shall established and maintain as many Special Homes as may be necessary for the reception of children taken custody of by it under section 3.

(2) Where the appropriate Government is of the opinion that any Non Governmental Institution maintained by a Non Governmental organisation is fit for the reception of the children to be sent there under this Act, it may certify such institution as a Fit Institution for the purposes of this Act.

(3) Every Special Home to which a child is sent under this Act shall not only provide the child with accommodation, maintenance and facilities for education, vocational training and rehabilitation, but also provide him with facilities for the development of his character and abilities and such other functions as may be prescribed to ensure all round growth and development of his personality.

(4) The appropriate Government may, by rules made under this Act, provide for the management of the Special Homes and Fit Institutions of the NGO's, including the standards and the nature of services to be maintained by them and the circumstances under which and the manner in which the certification of a Fit Institution of the NGOs may be granted or withdrawn.

(5) The rules made under sub-section (4) may also provide for the classification and separation of children on the basis of age and atmosphere prevalent in their case before their reception in the Special Home.

Penalty for cruelty to children.

5. Notwithstanding anything contained in any other law for the time being in force, whoever, having actual charge of or control over a child governed by the provisions of this Act assaults, abandons, exposes or wilfully neglects the child in a manner likely to cause such child unnecessary mental or physical suffering shall be punishable with imprisonment which shall not be less than one year but which may extend to three years and also with fine which may extend to ten thousand rupees.

Penalty for employment of children for begging.

6. Whoever employs or uses any child governed by the provisions of this Act for the purposes of begging or causes any such child to beg shall be punishable with imprisonment which shall not be less than two years but may extend to five years and also with fine which may extend to fifty thousand rupees.

7. Whoever exploits any child governed by the provisions of this Act shall be punishable with imprisonment for a term which may extend to three years and also with fine.

Penalty for exploitation of children.

8. (1) The Central Government shall create a Welfare Fund under such names as it may think fit for the welfare and rehabilitation of the children under this Act and provide initial funds of rupees fifty crores to the Funds after the appropriation made by Parliament by law in this behalf and thereafter the Central and State Governments shall contribute to the Fund in such proportion and in such manner as may be prescribed.

Constitution of a Welfare Fund.

(2) There shall be credited to the Fund such voluntary donations, contributions or subscriptions as may be made by any individual or organisation.

(3) The Fund constituted under sub-section (1) shall be administered in such manner and for such purposes as may be prescribed.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

There are thousands of prostitutes in the flesh trade in almost all the parts of the country earning their livelihood through this immoral way. Though prostitution is not permitted under the law, this profession is going on unhindered not only in our country but throughout the world. Despite the best efforts of the prostitutes, thousands of hapless children are born to them. These unfortunate children are forced by circumstances to live in the inhuman surroundings of brothels and they become its part and parcel where the boy ultimately becomes a pimp and the hapless girl a prostitute and the cycle goes on.

Similarly children are also born to women jail inmates or at the time of their sentence they already have children in their laps. Such children of women jail inmates are also forced by the circumstances to live alongwith their imprisoned mothers and are brought up in the jails where they have to live amongst the criminals and antisocial elements. As such the circumstances turn the innocent children towards crime and deprive them of becoming a good citizen.

Another horrible place for the toddlers is the mental hospital. Many a times children are born to mentally ill women undergoing treatment in a mental hospital. Such hapless children too are forced to languish with their mothers in the mental hospitals. Similarly mentally retarded women are also forced into motherhood by some beasts to satisfy their lust.

The children are the future citizens of the country and to make them good citizens they must grow in a good atmosphere. Our State being a welfare State, it is the duty of the Union and State Governments to take care of the hapless children born to prostitutes, jail inmates and mentally ill and mentally retarded women who become the victim of somebody's lust or of circumstances so that their upbringing is ensured in a good atmosphere and their future becomes safe. Hence it is proposed that the Government should take care of such hapless children and open Special Homes for their upbringing where all facilities should be provided to them to fulfil its welfare obligations towards these future citizens of the country.

Hence this Bill.

SAROJ KHAPARDE.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that the appropriate Government shall establish sufficient number of Special Homes for the purposes of this Bill. Clause 8 of the Bill provides for the Constitution of a Welfare Fund by the Central Government which shall provide an initial sum of rupees fifty crores to the Fund. The Bill, if enacted and brought into operation, will involve expenditure from the Consolidated Fund of India. It is estimated that it may involve a sum of rupees one hundred crores per annum as recurring expenditure.

A sum of rupees two hundred crores may also involve as non recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is, therefore, of normal character.

V. S. RAMA DEVI,
Secretary-General.

